

# United States District Court

FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN FRANCISCO

UNITED STATES OF AMERICA,

v.

**CR 15 419**

**CRB**

DANIEL WILLIAM ASTON and  
TROD LIMITED, d/b/a BUY 4 LESS,  
d/b/a BUY FOR LESS,  
d/b/a BUY-FOR-LESS-ONLINE

**FILED**

AUG 27 2015

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT(S).

## INDICTMENT

15 U.S.C. § 1 – Price Fixing

A true bill.

*W.C. [Signature]*

Foreman

Filed in open court this 27<sup>th</sup> day of

2015

*Karen L. Hom*

KAREN L. HOM

JOSEPH C. SPERO

Clerk

UNITED STATES MAGISTRATE JUDGE

Bail, \$

*no bail warrant for Defendant  
Aston.  
summons for Trod, Ltd.*

*1-M JV*

# DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT  
☐ SUPERSEDING

## OFFENSE CHARGED

Count One: 15 U.S.C. §1 - Price Fixing

- ☐ Petty  
☐ Minor  
☐ Misdemeanor  
☒ Felony

PENALTY: See Attachment

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

## DEFENDANT - U.S.

DANIEL WILLIAM ASTON

DISTRICT COURT NUMBER

## DEFENDANT

### IS NOT IN CUSTODY

Has not been arrested, pending outcome this proceeding.

- 1) ☒ If not detained give date any prior summons was served on above charges

- 2) ☐ Is a Fugitive

- 3) ☐ Is on Bail or Release from (show District)

### IS IN CUSTODY

- 4) ☐ On this charge

- 5) ☐ On another conviction

☐ Federal ☐ State

- 6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

Has detainer been filed? ☐ Yes ☐ No

If "Yes" give date filed

DATE OF ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted

## PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

Federal Bureau of Investigation

- ☐ person is awaiting trial in another Federal or State Court, give name of court

- ☐ this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

- ☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:

☐ U.S. ATTORNEY ☐ DEFENSE

SHOW DOCKET NO.

- ☐ this prosecution relates to a pending case involving this same defendant

MAGISTRATE CASE NO.

- ☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person

Furnishing Information on this form Antitrust Division

☐ U.S. Attorney ☒ Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned)

Micah L. Wyatt

## ADDITIONAL INFORMATION OR COMMENTS

### PROCESS:

- ☐ SUMMONS ☐ NO PROCESS\* ☒ WARRANT

Bail Amount: NO BAIL

If Summons, complete following:

- ☐ Arraignment ☐ Initial Appearance

Defendant Address:

\* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time:

Before Judge:

Comments:

PENALTY SHEET

Individual: **Daniel William Aston**

15 U.S.C. § 1 – Price Fixing

Maximum Penalties:

1. A term of imprisonment of 10 years
2. A fine of \$1 million, or two times the gross gain or loss, whichever is greater
3. A period of supervised release of not more than 3 years
4. \$100 special assessment per count
5. Restitution

**CRB**  
**CR 15 419**

**FILED**

**AUG 27 2015**

**RICHARD W. WIEKING**  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT**
 BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT  
☐ SUPERSEDING
**OFFENSE CHARGED**

Count One: 15 U.S.C. §1 - Price Fixing

- ☐
- Petty
- 
- ☐
- Minor
- 
- ☐
- Misdemeanor
- 
- ☒
- Felony

PENALTY: See Attachment

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

**DEFENDANT - U.S.**
 Trod Limited, d/b/a Buy 4 Less, d/b/a Buy 4 Less,  
 d/b/a Buy-For-Less-Online

DISTRICT COURT NUMBER

**CR 15 419 CRB**
**PROCEEDING**

Name of Complainant Agency, or Person (&amp; Title, if any)

Federal Bureau of Investigation

☐ person is awaiting trial in another Federal or State Court,  
 give name of court

☐ this person/proceeding is transferred from another district  
 per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of  
 charges previously dismissed  
 which were dismissed on motion  
 of:

☐ U.S. ATTORNEY ☐ DEFENSE
SHOW  
DOCKET NO.
☐ this prosecution relates to a  
 pending case involving this same  
 defendant
MAGISTRATE  
CASE NO.
☐ prior proceedings or appearance(s)  
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Name and Office of Person

Furnishing Information on this form Antitrust Division

☐ U.S. Attorney ☒ Other U.S. Agency

Name of Assistant U.S.

Attorney (if assigned)

Micah L. Wyatt

**DEFENDANT****IS NOT IN CUSTODY**
 1) ☒ Has not been arrested, pending outcome this proceeding.  
 If not detained give date any prior  
 summons was served on above charges
2) ☐ Is a Fugitive3) ☐ Is on Bail or Release from (show District)

AUG 27 2015

**IS IN CUSTODY**4) ☐ On this charge5) ☐ On another conviction
☐ Federal ☐ State
6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

 Has detainer ☐ Yes  
 been filed? ☐ No

 If "Yes"  
 give date  
 filed
DATE OF  
ARREST

Month/Day/Year

Or... if Arresting Agency &amp; Warrant were not

DATE TRANSFERRED  
TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted
**ADDITIONAL INFORMATION OR COMMENTS****PROCESS:**
☒ SUMMONS ☐ NO PROCESS\* ☐ WARRANT

Bail Amount: \_\_\_\_\_

If Summons, complete following:

☒ Arraignment ☒ Initial Appearance

Defendant Address:

 Unit 1-2, Frankley Industrial Park, 10 Tay Road,  
 Birmingham, England, B45 0LD

 \* Where defendant previously apprehended on complaint, no new summons or  
 warrant needed, since Magistrate has scheduled arraignment

Date/Time: Dec. 30, 2015 at 930 am Before Judge: Nandor J. Vadas

Comments:

PENALTY SHEET

Company: **Trod Limited, d/b/a Buy 4 Less, d/b/a Buy 4 Less,  
d/b/a Buy-For-Less-Online**

**CRB**

15 U.S.C. § 1 – Price Fixing

**CR 15 419**

Maximum Penalties:

1. A fine of \$1 million, or two times the gross gain or loss, whichever is greater
2. A term probation of at least one year but not more than five years
3. \$400 special assessment per count
4. Restitution

**FILED**

**AUG 27 2015**

**RICHARD W. WILSON  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

MICAH L. WYATT (CSBN 267465)  
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Attorneys for the United States

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

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UNITED STATES OF AMERICA

v.

DANIEL WILLIAM ASTON and  
TROD LIMITED, d/b/a BUY 4 LESS, d/b/a  
BUY FOR LESS, d/b/a BUY-FOR-LESS-  
ONLINE,

Defendants.

) No

CR 15 419

) INDICTMENT

) VIOLATION:

) Title 15, United States Code  
) Section 1 (Price Fixing)

The Grand Jury charges that:

I.

DESCRIPTION OF THE OFFENSE

1. The following corporation and individual are hereby indicted and made defendants on the charge stated below:

a. DANIEL WILLIAM ASTON; and

b. TROD LIMITED, d/b/a BUY 4 LESS, d/b/a BUY FOR LESS, d/b/a BUY-FOR-LESS-ONLINE (hereinafter "BUY 4 LESS")

2. Beginning as early as September 2013 and continuing until in or about January 2014, the defendants and their co-conspirators entered into and engaged in a combination and

1 conspiracy to fix the prices of certain posters (“agreed-upon posters”) sold in the United  
2 States on Amazon Marketplace, Amazon.com, Inc.’s (“Amazon”) website for third-party  
3 sellers.

4 3. The combination and conspiracy engaged in by the defendants and their co-  
5 conspirators was an unreasonable restraint of interstate commerce and U.S. import trade or  
6 commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

7 4. The charged combination and conspiracy consisted of a continuing agreement,  
8 understanding, and concert of action among the defendants and their co-conspirators, the  
9 substantial terms of which were to fix, increase, maintain, and stabilize prices of the agreed-  
10 upon posters.

## 11 II.

### 12 BACKGROUND

13 5. Posters are pieces of paper depicting printed images that are designed to be hung,  
14 mounted on, or affixed to a wall or other vertical surface.

15 6. Amazon Marketplace operates as an auction model. Sellers create accounts with  
16 Amazon through which they can offer various products. Though sales are made through  
17 Amazon Marketplace, sellers control all pricing and shipping decisions on the products they  
18 offer.

19 7. The defendants and their co-conspirators used commercially available algorithm-based  
20 pricing software to set the prices of agreed-upon posters sold on Amazon Marketplace. This  
21 software operates by collecting competitor pricing information for a specific product sold on  
22 Amazon Marketplace and applying pricing rules set by the seller.

## 23 III.

### 24 DEFENDANTS AND CO-CONSPIRATORS

25 8. During the time period covered by this Indictment, BUY 4 LESS was a United  
26 Kingdom corporation headquartered in Birmingham, England, that sold posters directly to  
27 customers in the United States through Amazon.  
28

9. During the time period covered by this Indictment, ASTON was a resident and citizen of the United Kingdom. From at least as early as February 2010 until at least as late as January 2014, ASTON was part owner and Director of BUY 4 LESS. While employed with BUY 4 LESS, ASTON was involved in the sale of posters on Amazon.

10. Various corporations and individuals not made defendants in this Indictment, participated as co-conspirators in the offense charged in this Indictment and performed acts and made statements in furtherance of it.

11. Whenever in this Indictment reference is made to any act, deed, or transaction of any corporation, the allegation means that the corporation engaged in the act, deed, or transaction by or through its officers, directors, employees, agents, or other representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

#### IV.

#### MEANS AND METHODS OF THE CONSPIRACY

12. For the purpose of forming and carrying out the charged combination and conspiracy, the defendants and their co-conspirators did those things that they combined and conspired to do in the United States and elsewhere, including, among other things:

- a. participated in conversations and communications with representatives of other poster-selling firms to discuss the prices of the agreed-upon posters;
- b. agreed during various conversations and communications to fix, increase, maintain, and stabilize prices of the agreed-upon posters;
- c. agreed to adopt specific pricing algorithms for the agreed-upon posters with the goal of coordinating changes to their respective prices;
- d. collected, exchanged, monitored, and discussed information on the prices and sales of the agreed-upon posters for the purpose of reaching agreements on prices, enforcing adherence to the agreements reached, and monitoring the effectiveness of the pricing algorithms; and

1 e. sold, distributed, and accepted payment for the agreed-upon posters at collusive, non-  
2 competitive prices on Amazon Marketplace in accordance with the agreements  
3 reached.

4  
5 V.

6 TRADE AND COMMERCE

7 13. During the period covered by this Indictment, the defendants and their co-conspirators  
8 sold posters in the United States or for delivery to the United States. The charged  
9 combination and conspiracy involved trade or commerce within the United States and U.S.  
10 import trade or commerce in posters.

11 14. During the period covered by this Indictment, the business activities of the defendants  
12 and their co-conspirators in connection with the sale of the agreed-upon posters were within  
13 the flow of, and substantially affected, interstate and U.S. import trade or commerce. During  
14 the period covered by this Indictment, the defendants and their co-conspirators shipped the  
15 posters between various states within the United States, and from foreign countries to  
16 customers located in the United States. During the period covered by this Indictment, the  
17 charged combination and conspiracy had a substantial and intended effect in the United  
18 States, including on trade or commerce in posters.

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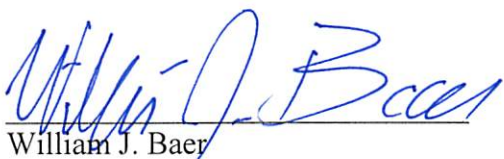
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VI.

JURISDICTION AND VENUE

15. The combination and conspiracy charged in this Indictment was carried out, in part, in the Northern District of California, within the five years preceding the return of this Indictment.

ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.



William J. Baer  
Assistant Attorney General



Marc Siegel  
Chief, San Francisco Office



Brent Snyder  
Deputy Assistant Attorney General



E. Kate Patchen  
Assistant Chief, San Francisco Office



Marvin N. Price  
Director of Criminal Enforcement  
United States Department of Justice  
Antitrust Division



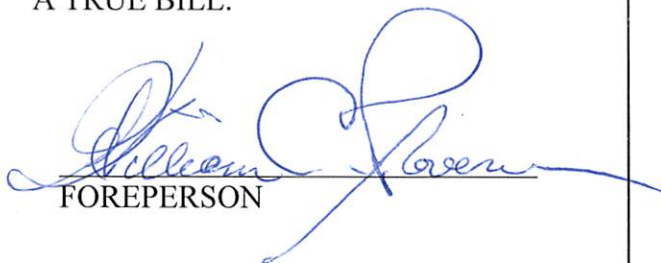
Micah L. Wyatt  
Henry J. Hauser  
Trial Attorneys  
United States Department of Justice  
Antitrust Division



Melinda Haag  
United States Attorney  
Northern District of California

Dated: 8/27/15

A TRUE BILL.

  
FOREPERSON